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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,992

10/21/2004

Dale L. Handlin

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05/31/2006

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EXAMINER

ASINOVSKY, OLGA

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/511,992	Applicant(s) HANDLIN ET AL.	
	Examiner Olga Asinovsky	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-19 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-19 and 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/14/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 17-19 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trepka et al U.S. Patent 6,265,485 in view of Knoll et al U.S. Patent 6,197,889 and further in view of Himes U.S. patent 5,750,622.

The rejection is set forth at pages 3-5 of the office action mailed on 10/06/2005 and it is incorporated here by references.

Applicants amend independent claim 17 by inserting (vi) the styrene blockiness index of the block B is less than 40 percent, said styrene blockiness index being the proportion of styrene units in the block B having two styrene neighbors on the polymer chain.

Response to Arguments

3. Applicant's arguments filed 03/14/2006 have been fully considered but they are not persuasive. The argument is that the primary reference to Trepka does not disclose copolymer having monovinylaromatic blockiness less than 40%, remarks at page 8. applicants argue that Trepka discloses a "tapered" copolymer when both the monovinylaromatic monomer and the conjugated diene are present, the block tapers gradually from and essentially polybutadiene block to an essentially monovinyl substituted aromatic polymer block, column 7, lines 14-17.

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4. In Trepka invention the copolymer block B/S can be produced by using a randomizer agent=controlling agent for producing the desired controlled distribution block copolymer of a B/S block copolymer. The sizes of the two tapered blocks can vary within the same copolymer depending upon the amounts of monomers charged in each step, column 7, lines 29-32. Trepka discloses polymerization process such that the sequence of additions of the monomers and of the initiator is controlled as well as the amount of each monomer and initiator addition at each stage. The randomizer can be selected to manipulate the direction of the conjugated diene rich chain to monovinylaromatic chain, column 7, lines 5-17. Trepka does not use phrase "controlled distribution copolymer block B" nor "the styrene blockiness index", however, the limitation (a)(i), (a)(iii) and (a)(vi) in the present claim 17 would be reasonably met in Trepka' invention.

5. The present claims disclose a composition. There is no evidence that the composition=product in Trepka invention would be different from the present claims. The block copolymer in Trepka invention can be blended with other polymer and/or additives, column 14, lines 35-45. The melt extrusion compounding process is indicated that the resulting composition is a solvent-free. The tackifying resin (b) and resin (c) would be expected in a composition in Trepka invention depending on the desired application. The preamble in the present claim 17 "for bonding a polar leather layer to a non-polar substrate" is intended use of the resulting composition. The phrase "for bonding a polar leather layer to a non-polar substrate" is meaningless for a composition claim. Any modifications to control the molecular weight of the hard block and a soft

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block copolymer as disclosed by Knoll'889 and additive for improving the adhesive properties by teaching in Himes invention would be expected to modify block copolymer composition in Trepka invention.

6. The prior art of March 14, 2006 made of record. References have been considered. The closest reference is US-2003-0166776-A1 (US application 10/359,953).

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 17-19, 21-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/359,953 (US-2003-0166776). Although the conflicting

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claims are not identical, they are not patentably distinct from each other because while the present claims disclose a solvent-free, hot melt adhesive composition and the copending application recites an article, the composition of said article is readable in the present claims, and the present hot-melt adhesive is also within the scope of an article. The difference between the present claims and the composition in an article in claims 1-18 of copending application 10/3659,953 is that an article in claims 1-18 of copending application 10/359,953 discloses a composition comprising at least one block copolymer having A-block of a mono alkenyl arene homopolymer block and B-block copolymer which is a controlled distribution copolymer block comprising at least one conjugated diene and at least one mono alkenyl arene, and optionally at least one other component. Said other components include tackifying resin and other resin that can be compatible with the mono alkenyl arene blocks. The B-block having the styrene blockiness index in claim 4 of copending application 10/359,953 is readable in the present claims. It would have been obvious to one of ordinary skill in the art to use a composition in claims 1-18 of copending application 10/359,953 for producing an adhesive composition and to consider that tackifying resin and other resin are present for formulation a solvent-free, hot melt adhesive.

9. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 17-19 and 21-25 are rejected under 35 U.S.C. 103(a) as being obvious over Wright et al US 2003-0166776.

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The applied reference has a common inventor with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2). For the explanation see paragraph 8 above. In addition the tackifying resin can be a hydrogenated resin, see [0033]. The other resin can include styrene (co)polymers, see [0031]. It would have been obvious to one of ordinary skill in the art to use a formulated composition in claims 1-18 of the copending application US 2003-0166-776 for producing an adhesive composition wherein the other resin can be selected for being compatible with the styrene block.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is 571-272-1066. The examiner can normally be reached on 9:00 to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C.A.

Olga Asinovsky
Examiner
Art Unit 1711

May 26, 2006


James J. Seidleck
Supervisory Patent Examiner
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